

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JORDAN DAVID KNIPPLING,)	No. CV-09-200-JPH
)	
Plaintiff,)	ORDER ADOPTING REPORT AND
)	RECOMMENDATION
v.)	(Ct. Rec. 54)
)	
JUSTIN W. ELLIOTT, and JASON)	
KARNITZ,)	
)	
Defendants.)	

BEFORE THE COURT is the Report and Recommendation to deny plaintiff's motion for summary judgment (Ct. Rec. 54). Plaintiff moved for summary judgment on February 8, 2010 (Ct. Rec. 40). On March 1, 2010, defendants filed a response (Ct. Recs. 46-50) and on March 22, 2010, plaintiff replied (Ct. Recs. 51-52). Magistrate Judge James P. Hutton's report and recommendation, filed on March 30, 2010 (Ct. Rec. 54), recommends plaintiff's summary motion be denied. On April 12, 2010, plaintiff timely filed objections to the magistrate judge's report (Ct. Rec. 59). Plaintiff also filed an appeal of the order denying Mr. Knippling's default motion (Ct. Rec. 60), which includes "Objections to Report and Recommendation to Deny Plaintiff's Motion Summary Judgment," even though the Court advised Mr. Knippling on March 30, 2010, a magistrate judge's recommendation cannot be appealed to a court of appeals (Ct. Rec. 54 at p. 15).

Plaintiff raises objections based on a misunderstanding of

1 the filing deadlines described in the local rules (Ct. Rec. 54 at
2 1-5). He argues, incorrectly, defendants' response to his motion
3 for summary judgment was untimely. Mr. Knippling's additional
4 objections reargue points rejected by the magistrate judge (Ct.
5 Rec. 54 at 5-27). The magistrate judge found defendants show
6 genuine issues of material fact exist with respect to plaintiff's
7 claim he was arrested merely to obtain his identification;
8 additional questions of fact flowing from the initial contact
9 include whether Mr. Knippling resisted arrest, whether he was
10 properly searched, whether police destroyed evidence, and other
11 issues (Ct. Rec. 54 at 9-13). Plaintiff fails to show the
12 determination is incorrect.

13 Having reviewed the Report and Recommendation and the files
14 and records herein, and finding the objections are not well taken,
15 the Court adopts the magistrate judge's report and recommendation
16 in its entirety.

17 Accordingly, **IT IS HEREBY ORDERED** that the recommendation
18 (Ct. Rec. 54) to deny plaintiff's **motion for summary judgment** is
19 **ADOPTED in its entirety**. Plaintiff's motion (Ct. Rec. 40) is
20 **DENIED**.

21 **IT IS SO ORDERED**. The District Court Executive is directed
22 to enter this Order and forward copies to counsel for the parties
23 and the magistrate judge.

24 **DATED** this 7th day of May, 2010.

25
26 s/Robert H. Whaley
27 ROBERT H. WHALEY
United States District Judge

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